

File No. 201827

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DEAN MANNING

Plaintiff,

vs.

Civil Action No.:

SWIFT TRANSPORTATION
COMPANY OF ARIZONA, LLC,
SHURHAN M. SIMPSON, ABC-XYZ
CORPORATIONS (A SERIES OF
FICTITIOUS NAMES), JOHN DOE,
RICHARD ROE (A SERIES OF
FICTITIOUS NAMES), TARGET
CORPORATION, DEF-GHI
CORPORATIONS (A SERIES OF
FICTITIOUS NAMES)

Defendants.

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY:

Defendants, Swift Transportation Co. of Arizona, LLC and Target Corporation, by and
through their attorneys, Salmon, Ricchezza, Singer & Turchi, LLP, respectfully aver as follows:

1. At all material times, Plaintiff, Dean Manning, was and is a citizen of Mercer County, State of New Jersey. (See Exhibit "A" – Complaint).
2. At all material times, Defendant Swift Transportation Co. of Arizona, LLC was and is a corporation incorporated under the laws of the State of Delaware with its principle place of business in Phoenix, Arizona.

3. At all material times, Defendant Target Corporation was and is a corporation incorporated under the laws of the State of Minnesota with its principle place of business in Minneapolis, Minnesota.

4. At all material times, Defendant Shurhan M. Simpson, was and is a citizen of Philadelphia, Pennsylvania.

5. Plaintiff commenced a civil action against defendants in the Superior Court of New Jersey, County of Mercer, on or about August 3, 2017. Plaintiff forwarded a carbon copy the Complaint via certified and regular mail on August 4, 2017 to Defendant Swift Transportation.

6. Upon information and belief, the Complaint was forwarded to Defendant Target Corporation in the same manner on August 4, 2017 as well.

7. Upon information and belief, Defendant Shurhan M. Simpson has not yet been served and/or has not received a copy of the Complaint. Therefore, pursuant to Lewis v. Rego Co., 757 F.2d 66 (3rd Cir. 1985), the consent of Shurhan M. Simpson is not required for removal. Notwithstanding, through counsel herein, Shurhan M. Simpson, consents to the removal of this matter to Federal Court.

8. Accordingly, this Petition for Removal is timely filed.

9. A review of Plaintiff's Complaint reveals that it does not contain an *ad damnum* clause alleging a specific amount in controversy. However, the Complaint does allege the following:

Plaintiff, Dean Manning, was violently tossed about, sustained injuries causing permanent disability, permanent significant disfigurement, permanent loss of bodily function, and/or loss of earnings and earning capacity in excess of that provided by N.J.S.A. 39:6-1 et. seq., has incurred or in the future will incur expenses for the treatment of said injuries in excess of the

applicable threshold, has been disabled and in the future will be caused great pain and suffering, has been deprived and in the future will be deprived of his right to the enjoyment of life to his great loss and damage. (See Exhibit A).

10. N.J.S.A 39:6A-8(a) states in relevant part that an injured claimant may not recover non-economic damages unless a physician certifies that he sustained:

a bodily injury which results in death; dismemberment; significant disfigurement or significant scarring; displaced fractures; loss of a fetus; or a permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement. An injury shall be considered permanent when the body part or organ, or both, has not healed to function normally with further medical treatment. (N.J.S.A. 39:6A-8(a.)

11. Accordingly, in light of the foregoing, Plaintiff Dean Manning, has set forth a claim in which the amount in excess of the jurisdictional limit of \$75,000, exclusive of interest and costs, may be at stake.

12. Diversity of citizenship within the meaning of 28 U.S.C. §1332 exists between Plaintiff and Defendants since:

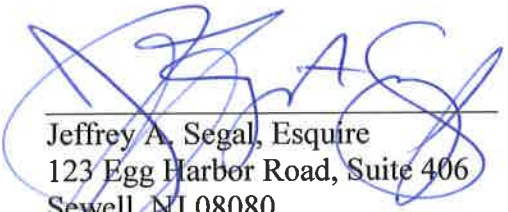
- (a) At all material times, Plaintiff, Dean Manning, was and is a citizen of Mercer County, State of New Jersey.
- (b) At all material times, Defendant Swift Transportation Co. of Arizona, LLC was and is a corporation incorporated under the laws of Delaware with its principle place of business in Phoenix, Arizona.
- (c) At all material times, Defendant Shurhan M. Simpson, was and is a citizen of Philadelphia, Pennsylvania.
- (d) At all material times, Defendant Target Corporation was and is a corporation incorporated under the laws of the State of Minnesota with its principle place of business in Minneapolis, Minnesota.

13. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of filing of this notice, such that Defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446

WHEREFORE, Defendants, Swift Transportation Co. of Arizona, LLC and Target Corporation, pray that the above captioned action now pending in the Superior Court of New Jersey, Law Division, Mercer County, be removed therefrom to this Honorable Court.

SALMON, RICCHEZZA, SINGER & TURCHI, LLP

By:



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Attorneys for Defendants
Swift Transportation Co. of Arizona
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Date:

9-5-17